

**DISTRICT OF COLUMBIA  
DOH OFFICE OF ADJUDICATION AND HEARINGS**

DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH

Petitioner,

v.

WIL-TRANS PRIME, INC.  
Respondent

Case No.: I-02-12183

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**FINAL ORDER**

**I. Introduction**

This case arises under the Civil Infractions Act of 1985, D.C. Official Code §§ 2-1801.01 – 2-1802.05, and Title 20, Chapter 9 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (No. 12183) served on July 26, 2002, the Government charged Respondent Wil-Trans Prime, Inc., with a violation of 20 DCMR 900.1, which prohibits, with certain exceptions, motor vehicles from idling their engines for more than three minutes while parked, stopped or standing (the “Regulation”). The Notice of Infraction charged that Respondent violated the Regulation on July 24, 2002, while its truck was parked in the 1300 block of 4<sup>th</sup> Street, N.E., and sought a fine of \$500.

Respondent filed a timely answer with a plea of Admit with Explanation pursuant to D.C. Official Code § 2-1802.02(a)(2), along with a request for a reduction or suspension of the authorized fine. Accompanying the answer was a letter of explanation from Mr. Duane Grimme, the operator of the vehicle on the day in question. He stated that he had to run jumper wires

from the truck's engine to keep the refrigeration unit on the trailer running so that his load of oranges could stay cold pending their delivery.

In response, the Government inspector who issued the Notice of Infraction disputed the driver's explanation. He stated that the truck was parked in the opposite direction on a one-way street that was not in a market area or near a produce store, and that he observed the truck for an hour, during which time the driver was not present and there was no evidence that a delivery was in process. The Government stated, however, that while a suspension of the fine was not warranted, it would not object to a reduction of the fine since this was the first time Respondent had been cited for a violation, if Respondent produced documentation, such as a repair receipt, to substantiate the alleged malfunctioning of the refrigeration unit.

Mr. Grimme then submitted another letter of explanation. He stated that he tried to get his customer to take the load of oranges before the scheduled time because of the malfunctioning refrigeration unit, but the customer couldn't accommodate him. He then proceeded down the street to look for an "auto-store," without success. He then returned to his truck, and drove to a truck stop in Jessup, Maryland, where he got an alternator belt from another driver and fixed the refrigeration unit himself.

Based upon the entire record in this matter, I make the following findings of fact and conclusions of law:

## **II. Findings of Fact**

By its answer of Admit with Explanation, Respondent has admitted violating the Regulation on July 24, 2002, as a result of the idling of its vehicle's engine for more than three

minutes while it was parked in the 1300 block of 4<sup>th</sup> Street, N.E. I credit the Inspector's first-hand observations, which are not consistent with the operator's explanation of the circumstances of the violation. Therefore, I find that Respondent has not proved that its truck was parked in connection with making a delivery or any emergency situation, and that it was necessary for the truck to have its engine idling because of a malfunction of the trailer's refrigeration unit. Respondent, however, has accepted responsibility for its unlawful conduct and there is no evidence in the record of a history of non-compliance by Respondent.

### **III. Conclusions of Law**

By idling the engine of its truck for more than three minutes while parked Respondent violated the Regulation, as charged in the Notice of Infraction. The fine for this violation is \$500 for a first offense. 16 DCMR §§ 3201.1(b)(1), 3224.3(aaa).

The Regulation provides an exemption for the operation of "power takeoff equipment," *i.e.*, equipment powered by a truck's engine. 20 DCMR 900.1(b); *DOH v. M.A.T.T. Trucking*, OAH No. I-00-10367 at 3 (Final Order, June 16, 2001); *DOH v. Best Trucking Co.*, OAH No. I-00-10056 at 3-4 (Final Order, July 28, 2000). The emergency operation of the trailer's refrigeration unit through the utilization of electricity generated by the operation of the truck's engine arguably qualifies as "power takeoff equipment" for purposes of the Regulation. *DOH v. Anderson Trucking, LLC*, OAH No. I-02-12001 at 4 (Final Order, August 5, 2002). However, Respondent has not shown that the exemption for the use of "power takeoff equipment," or the equivalent, is applicable here.

While there is no basis for suspending the authorized fine, there are mitigating factors that make a reduction of the fine appropriate. Respondent has accepted responsibility for the violation, and there is no evidence in the record of a history of noncompliance by Respondent. Accordingly, I will reduce the fine to \$350. *See* D.C. Official Code §§ 2-1802.02(a)(2) and 2-1801.03(b)(6); 18 U.S.C. § 3553; U.S.S.G. § 3E1.1.

#### IV. Order

Based upon the above findings of fact and conclusions of law, it is, this \_\_\_\_\_ day of \_\_\_\_\_, 2003:

**ORDERED**, that Respondent Wil-Trans Prime, Inc., shall pay a total of **THREE HUNDRED FIFTY DOLLARS (\$350)** in accordance with the attached instructions within 20 calendar days of the date of service of this Order (15 days plus 5 days service time pursuant to D.C. Official Code §§ 2-1802.04 and 2-1802.05); and it is further

**ORDERED**, that if the Respondent fails to pay the above amount in full within 20 calendar days of the date of mailing of this Order, interest shall accrue on the unpaid amount at the rate of 1½ % per month or portion thereof, starting from the date of this Order, pursuant to D.C. Official Code § 2-1802.03(i)(1); and it is further

Case No«IF MC/WhichNOI = "SECOND"»S«END IF».: «MC/NOI1LetterPrefix»-  
«MC/NOI1NumberPrefix»-«TX/NOI1Number»  
«IF MC/WhichNOI = "SECOND"»«MC/NOI2LetterPrefix»-«MC/NOI2NumberPrefix»-  
«TX/NOI2Number»«END IF»

**ORDERED**, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits, pursuant to D.C. Official Code § 2-1802.03(f), the placement of a lien on real and personal property owned by Respondent, pursuant to D.C. Official Code § 2-1802.03(i), and the sealing of Respondent's business premises or work sites, pursuant to D.C. Official Code § 2-1801.03(b)(7).

/f/ 01/16/03

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Robert E. Sharkey  
Administrative Judge